

ORDINANCE 26 - 2008

**STORMWATER - ILLICIT DISCHARGE ORDINANCE
CITY OF COLUMBUS**

ARTICLE I PURPOSE/INTENT

The intent of this Ordinance is to protect and enhance the water quality of our watercourses and water bodies in a manner pursuant to and consistent with the Federal Clean Water Act (33 U.S.C. §1251 et seq.) and to also provide for the health, safety, and general welfare of the citizens of the City of Columbus through the reduction of pollutants in stormwater discharges and the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable. This Ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process and specifically meet the requirements of 327 IAC 15-13. The objectives of this Ordinance are:

1. To regulate pursuant to 327 IAC 15-13 the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user;
2. To prohibit illicit connections and discharges to the municipal separate storm sewer system;
3. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this Ordinance; and
4. To promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, grease, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment and other pollutants into the storm drainage system.

ARTICLE II DEFINITIONS

For the purposes of this Ordinance, the following terms shall have the meaning set forth in this section:

Basement: A building substructure used for any type of storage or finished for use as living or entertainment quarters.

Best Management Practices (BMPs): Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

City: The employees or designees of the City of Columbus designated to enforce this Ordinance.

Concentrated flow: Any flow observable in an MS4 conveyance such as a pipe, gutter or swale.

Contiguity: An entities proximity to a designated MS4 area in such a way that it allows for direct discharges of storm water run-off into the regulated MS4 conveyance

Conveyance: Any structure which transfers storm water between at least two (2) points. The term includes but is not limited to piping, ditches, swales, curbs, gutters, catch basins, channels, storm drains, and roadways.

Clean Water Act: The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Construction Activity: Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbances of one acre or more, or from sites smaller than one (1) acre if the construction activity is part of a larger plan of development or sale that disturbs one (1) acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

Crawl Space: A building substructure not meeting the above definition of a basement.

Disposal: The discharge; deposit; injection; spilling; leaking; or placing of any solid waste or hazardous waste into or on any land or water so that the solid or hazardous waste, or any constituent of the waste, may enter the environment, be emitted into the air, or be discharged into any waters, including ground waters.

Garbage: All animal solid, vegetable solid, and semisolid wastes resulting from the processing; handling; preparation; cooking; serving; or consumption of food or food materials.

Facility: Any building including private homes, structures, installations, processes, or activities from which there is or may be a pollutant discharge.

Hazardous Materials: Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illegal Discharge: Any direct or indirect non-stormwater discharge to the storm drain system, except naturally occurring floatables, such as leaves or tree (shrub) limbs or as exempted in ARTICLE VII, Section B of this Ordinance.

Illicit Connections: An illicit connection is defined as either of the following:

1. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-stormwater or non pure ground water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains, basement sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the City or,
2. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by the City.

Illicit Discharge: See illegal discharge.

Industrial Activity: Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14) and subject to 327 IAC 15-6.

Mobile Cleaning Operations: (or mobile washing) Power washing, steam cleaning, and any other method of mobile cosmetic cleaning, including but not limited to, vehicles, fabric, pets and/or exterior surfaces, engaged in for commercial purposes or related to a commercial activity.

Municipal Separate Storm Sewer System (MS4): Publicly-owned facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, catch basins, inlets, piped storm drains, culverts, pumping facilities, retention and detention basins, natural and human-made or altered drainage ditches/channels, reservoirs, and other drainage structures.

National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit: A permit issued by EPA (or by the State of Indiana under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to the States watercourses, whether the permit is applicable on an individual, group, or general area-wide basis.

Non-Stormwater Discharge: Any discharge to the storm drain system that is not composed entirely of stormwater.

Person: Means any individual, association, organization, partnership, firm, corporation, limited liability company or other entity recognized by law.

Pollutant: Anything that causes or contributes to pollution. Pollutants may include but are not limited to: paints, varnishes, solvents; oil and automotive fluids; non-hazardous liquid and solid wastes; yard wastes; refuse, rubbish, garbage, litter, floatables; pesticides; herbicides; and fertilizers; hazardous substances and wastes; sewage, effluent, fecal coliform, E. Coli and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure, and noxious or offensive matter of any kind.

Pollution: The presence in watercourse of any pollutant listed above or a substance listed with the USEPA.

Premises: Any building, lot, parcel of land, or portion of land whether improved or unimproved, and including adjacent sidewalks and parking strips.

Receiving Water: Waters of the state including but not limited to Driftwood River, Flatrock River, Haw Creek, Wolf Creek, Denios Creek, East Fork White River, Clifty Creek and Sloan branch. The term does not include private drains, retention and detention basins, or constructed wetlands used as treatment.

Storm Drainage System: Also defined as Municipal Separate Storm Sewer System (MS4).

Spill: An unintentional release of solid or liquid material, which may cause pollution of the MS4 or its receiving waters.

Stormwater: Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Stormwater Pollution Prevention Plan (SWP3) or Stormwater Management Plan (SWMP): A document which describes the Best Management Practices and activities to be implemented by a person to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, MS4, and/or receiving waters to the maximum extent practicable.

Threatened Discharge: A condition creating a substantial probability of a pollutant entering an MS4 or surface waters which may cause harm when the probability and potential extent of harm make it reasonably necessary to take immediate action to prevent, reduce or mitigate damages to persons, property or natural resources.

Wastewater: Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

Watercourse: A natural or artificial channel through which water can flow.

ARTICLE III APPLICABILITY

This Ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands lying within the City of Columbus unless explicitly exempted by ARTICLE VII, Section 8.

ARTICLE IV RESPONSIBILITY FOR ADMINISTRATION

The City shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted or duties imposed upon the City may be delegated in writing by the Mayor to persons or entities acting in the beneficial interest of or in the employ of the City.

ARTICLE V SEVERABILITY

The provisions of this Ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

ARTICLE VI ULTIMATE RESPONSIBILITY

The standards set forth herein and promulgated pursuant to this Ordinance are minimum standards; therefore this Ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

ARTICLE VII DISCHARGE PROHIBITIONS, EXEMPTIONS AND REQUIREMENTS

A. Prohibitions

1) No person shall discharge or cause to be discharged into the municipal separate storm sewer system (MS4) or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater.

Common stormwater pollutants include but are not limited to paints, varnishes, and solvents; oil and other automotive fluids; brine as from water softener discharges; non-hazardous liquid and solid wastes and yard wastes; trash, refuse, rubbish, garbage, food waste, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; oil and grease; cleaning products; pesticides, herbicides, and fertilizers; landscaping materials; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from construction activities including but not limited to, painting, paving, concrete placement, sawcutting, and grading; wastes and residues that result from mobile washing operations; discharges from toilets; sinks; industrial processes; cooling systems; boilers; fabric cleaning; equipment cleaning; commercial vehicle cleaning; substances added to the storm drain to control root growth and noxious or offensive matter of any kind.

2) It shall be unlawful for any person to intentionally dump liquids or solids that are considered pollutants on the ground where there is potential exposure to rain or stormwater and potential for the pollutant to reach the MS4 of the City.

3) The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

4) No person owning or in control of any premises shall connect a line conveying sewage to the MS4, or allow such a connection to continue.

5) It shall be unlawful to cause materials to be deposited in such a manner or location as to constitute a threatened discharge into storm drains, gutters or other watercourses. Materials that are no longer contained in a pipe, tank or other container are considered to be threatened discharges unless they are actively being cleaned up.

6) No person shall maliciously destroy or interfere with BMPs implemented to protect water quality.

B. Exemptions

The following discharges are exempt from the discharge prohibitions established by this Ordinance when properly managed:

1) Water line flushing or other potable water sources, landscape irrigation or lawn watering, irrigation return flows, diverted stream flows, rising ground water, uncontaminated ground water infiltration to storm drains (as defined by 40 CFR 35.2005 (20)), uncontaminated pumped ground water, foundation or footing drains, crawl space pumps, air conditioning condensation, springs, individual residential car washing or car washing of less than two (2) consecutive days in duration for charity or nonprofit fund raising, natural riparian habitat or wet-land flows, fire fighting activities, and any other water source not containing pollutants.

2) Discharges approved by the authorized enforcement agency as being necessary to protect public health and safety, such as flows from firefighting.

3) Dye testing, provided the person undertaking such testing provides verbal notification to the authorized enforcement agency 24 hours prior to the time of the test.

4) The prohibitions set forth in ARTICLE VII, Section A shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted by the City for any discharge to the storm drain system.

5) The City may exempt in writing other non-stormwater discharges which are not a source of pollutants to the MS4 or other watercourses.

C. Requirements Applicable to Potential Dischargers

1) Watercourse Protection. Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

2) Minimization of Landscaping Irrigation Runoff. A discharge of landscaping irrigation water that is of sufficient quantity to cause a concentrated flow in the municipal separate storm sewer system is prohibited. Irrigation systems shall be managed to reduce the discharge of water from a site.

- 3) Cleaning of Paved Surfaces Required. The owner of any paved parking lot, street or drive shall clean the pavement as necessary to prevent the buildup and discharge of pollutants. The visible buildup on a paved service of mechanical fluid, waste materials, sediment or debris is a violation of this Ordinance. Paved surfaces shall be cleaned by dry sweeping, wet vacuum sweeping, or other methods in compliance with this Ordinance.
- 4) Mobile Cleaning Operations. Mobile cleaning operations shall not discharge to the municipal separate storm sewer system in violation of this Ordinance.
- 5) Maintenance of Equipment. Any leak or spill related to equipment maintenance in an outdoor, uncovered area shall be contained to prevent the potential release of pollutants.
- 6) Vehicles, machinery and equipment must be maintained to reduce leaking fluids.
- 7) Materials Storage. In addition to other requirements of this Ordinance, materials such as but not limited to stockpiles used in construction and landscaping activities shall be stored to prevent the potential release of pollutants.
- 8) Pet Waste. Pet waste shall be disposed of as solid waste or sanitary sewage in a timely manner, to prevent the discharge to the MS4.
- 9) Pesticides, Herbicides and Fertilizers. Pesticides, herbicides and fertilizers shall be applied in accordance with manufacturer recommendations and applicable laws. Excessive application shall be avoided. Pesticides, herbicides and fertilizers shall be stored in a manner to prevent release to the MS4.

ARTICLE VIII

REQUIREMENT TO ELIMINATE ILLEGAL DISCHARGES

The City may require by written notice that a person responsible for an illegal discharge immediately, or by a specified date, discontinues the discharge and, if necessary, takes measures to eliminate the source of the discharge to prevent the occurrence of future illegal discharges.

ARTICLE IX REQUIREMENT TO ELIMINATE OR SECURE APPROVAL FOR ILLCIT CONNECTIONS

The City may require by written notice that a person responsible for an illicit connection to the storm drain system comply with the requirements of this Ordinance to eliminate or secure approval from the City Engineer for the connection by a specified date, regardless of whether or not the connection or discharges to it had been established or approved prior to the effective date of this Ordinance.

If, subsequent to eliminating a connection found to be in violation of this Ordinance, the responsible person can demonstrate that an illegal discharge will no longer occur, said person may request City approval to reconnect. The reconnection or reinstallation of the connection shall be at the responsible person's expense.

ARTICLE X SUSPENSION OF MS4 ACCESS

A. Suspension due to Illicit Discharges in Emergency Situations

The City may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge, which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or other watercourses. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or other watercourses, or to minimize danger to persons.

B. Termination due to the Detection of Illicit Discharge

Any person discharging to the MS4 in violation of this Ordinance may have their MS4 access terminated if such termination would, in the judgment of the authorized enforcement agency, abate or reduce an illicit discharge. The authorized enforcement agency will notify the violator of the proposed termination of their MS4 access. The violator may petition the authorized enforcement agency for a post-termination hearing regarding the termination of access. Such hearing shall be conducted in accordance with rules promulgated by the authorized enforcement agency. A person commits a violation of this Ordinance if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the authorized enforcement agency.

ARTICLE XI INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the City prior to or as a condition of a subdivision, site plan, building permit, or development or improvement plan; upon inspection of the facility; during any enforcement proceeding or action; or for any other reasonable cause.

ARTICLE XII ACCESS AND INSPECTION OF PROPERTIES AND FACILITIES

Whenever the City has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this Ordinance, the City or its agent shall have the right to enter the premises at any reasonable time to determine if the discharger is complying with all requirements of this Ordinance. The City or its agent shall be permitted to enter and inspect facilities subject to regulation under this Ordinance as often as may be necessary to determine compliance with this Ordinance. If the facility has security measures in force that require proper identification and clearance before entry into its premises, the person in control of such premises shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency. In the event that the owner or occupant refuses entry after a request to enter has been made, the City is hereby empowered to seek assistance from a court of competent jurisdiction in obtaining such entry. If a discharge is observed which represents an immediate hazard to public health or safety, or aquatic life, the City, a Department of Law Enforcement, a Department of Fire and Rescue Services, and any other agent of the City, may enter any property or structure, except a dwelling, as necessary to prevent or stop the hazard.

The City shall have the right to set up on the property of any discharger to the municipal separate storm sewer system such devices that are necessary to conduct an investigation of such discharges. The investigation may include, but is not limited to the following: sampling of any discharge and/or process waters, the taking of photographs, interviewing staff on alleged violations, and access to any and all facilities or areas within the premises that may have any effect on the discharge.

ARTICLE XIII REQUIREMENT TO REMEDIATE

Whenever the City finds a discharge of pollutants is taking place or has occurred which will result in or has resulted in pollution of stormwater, the storm drain system, or other watercourses, the City may require by written notice to the owner of the property and/or the responsible person that the pollution be remediated and the affected property restored within a specified time pursuant to the provisions of ARTICLE XVII of this Ordinance.

ARTICLE XIV REQUIREMENT TO MONITOR AND ANALYZE

The City may require by written notice of requirement that any person engaged in any activity and/or owning or operating any facility which may cause or contribute to stormwater pollution, illegal discharges, and/or non-stormwater discharges to the storm drain system or other watercourses, to undertake at said person's expense such monitoring and analyses and furnish such reports to the City as deemed necessary to determine compliance with this Ordinance.

ARTICLE XV REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES

The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 or watercourses through the use of structural and non-structural BMPs. Further, any person responsible for premises, which are, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliant with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPP) or stormwater management plan (SWMP) as necessary for compliance with requirements of the NPDES permit.

ARTICLE XVI NOTIFICATION OF SPILLS

Notwithstanding other requirements of law, as soon as any person responsible for any premises, facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the municipal separate storm sewer system, or other watercourses, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the City or its appointed agent in person or by phone no later than 24 hours. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City at:

City of Columbus
City Engineer's Office
123 Washington Street
Columbus, IN 47201

within 5 calendar days of the phone or in person notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least 3 years.

ARTICLE XVII VIOLATIONS, ENFORCEMENT AND PENALTIES

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. Any person who violates any of the provisions of this Ordinance shall be subject to one or more of the enforcement actions outlined in this section. Any violation or threatened violation may be restrained by injunction or otherwise abated in a manner provided by law.

In the event the violation constitutes an immediate danger to public health or public safety, the City or its appointed agent is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The City or its appointed agent is authorized to seek costs of abatement as outlined in ARTICLE XVIII, Section E.

A. Compliance Directive

In addition to any other remedy available to the City, inspectors may issue compliance directives at the time of inspection to require a person to implement actions that will correct any violation of this Ordinance.

B. Notice of Violation

Whenever the City finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the City may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- 1) The performance of monitoring, analyses, and reporting;
- 2) The elimination of illicit connections or discharges;
- 3) That violating discharges, practices, or operations shall cease and desist;
- 4) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property; and
- 5) Payment of a fine to cover administrative and remediation costs; and
- 6) The implementation of source control or treatment BMPs.

If abatement of a violation or the restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to complete the remediation or restoration within the established deadline, the work may be done by the City or its designee and the expense thereof shall be charged to the violator.

C. Appeal of Notice of Violation

Any person receiving a Notice of Violation may appeal the determination of the City. The notice of appeal must be received within 10 days from the date of the Notice of Violation. Hearing on the appeal before the Board of Public Works and Safety or its designee shall take place within 15 days from the date of receipt of the notice of appeal. The decision of the Board or their designee shall be final.

D. Enforcement Measures after Appeal

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 10 days of the decision of the Board, then representatives of the City and its designees are authorized to enter upon the subject property and are authorized to take any and all measures necessary to abate the violation and restore the affected property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the representatives or designees of the City to enter upon the premises for the purposes set forth above.

E. Cost of Abatement of the Violation

If the City abates a violation, then within 15 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. Such notice shall be given by personal delivery or by mail to the last known address of the owner as shown in the records of the County Assessor. Such notice shall be effective upon the date of mailing or personal delivery. The property owner may file a written protest objecting to the amount of the assessment within 10 days of the effective date of the notice. If no protest is filed, then the charges shall become due and payable on the date set forth in the notice, which date shall be after the expiration of the time in which to file an appeal, and such charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. In the event a protest is filed, a hearing on such protest shall be held before the Board of Public Works and Safety or its designee within 15 days from the date of receipt of the written protest. If any charges are upheld upon completion of such hearing, then such charges shall become due and payable 10 days after the issuance of the order upon such protest and if not timely paid, such charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Such charges may also be recovered in a civil against the owner or other person in control of the premises for which such charges were incurred, and any person violating any of the provisions of this Ordinance shall be liable to the City for all costs, fees, charges and expenses, including but not limited to administrative costs and legal fees and costs, by reason of such violation.

F. Civil Penalties

In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within 10 days, or such greater period as the City shall deem appropriate, after the City has taken one or more of the actions described above, the City may impose a penalty not to exceed \$1,000 (depending on the severity of the violation) for each day the violation remains unremedied after the receipt of the notice of violation.

G. Criminal Penalties; Enforcement Costs

Any person who violates any provision of this Ordinance shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of \$500 dollars per violation per day.

The City may recover all attorneys' fees, court costs and other expenses associated with enforcement of this Ordinance, including sampling and monitoring expenses.

H. Injunctive Relief

The City may petition for a preliminary or permanent injunction restraining any person from undertaking any activities which would result in a violation or continued violation of this Ordinance, and may seek mandatory injunctive relief compelling the person to perform abatement or remediation of any violation of this Ordinance.

I. Compensatory Action

In lieu of enforcement proceedings, penalties, and remedies authorized by this Ordinance, the City at its option may impose upon a violator alternative compensatory action, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

J. Violations Deemed a Public Nuisance

In addition to the enforcement processes and penalties provided herein, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, or may be the subject of a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance.

K. Remedies Not Exclusive

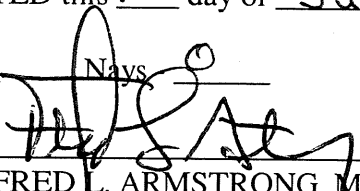
Except as expressly provided above, the remedies in this Section are cumulative and the exercise of any one or more remedies shall not prejudice any other remedies that may otherwise be pursued for a violation of this Ordinance. The remedies listed in this Ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the City to seek cumulative remedies.

ARTICLE XVIII ADOPTION OF ORDINANCE.

This Ordinance shall be in full force and effect after its final passage and adoption. All prior Ordinances and parts of Ordinances in conflict with this Ordinance are hereby repealed.

PASSED AND ADOPTED this 17 day of June, 2008, by the following vote:

VOTE: Ayes - 6 Nays - 0

APPROVED: 
FRED L. ARMSTRONG, MAYOR
CITY OF COLUMBUS, INDIANA

ATTEST:


BRENDA SULLIVAN, CLERK-TREASURER
CITY OF COLUMBUS, INDIANA